

REMARKS

Claims 1-4 and 6 are now pending, with claim 1 being the only independent claim. Claim 5 was previously canceled.

Claims 1, 2, 4, 6 and 7 stand rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 4,974,570 ("*Szwargulski*"). Claims 8 and 9 stand rejected under 35 U.S.C. §103(a) as unpatentable over *Szwargulski*. For the following reasons, reconsideration and withdrawal of these rejections requested.

Independent claim 1 recites, *inter alia*, "an annular second chamber surrounding and connected to the first chamber via a throttle valve" and "wherein a volumetric flow of fuel that is restricted by the throttle valve is smaller than the volumetric flow fed by the fuel pump".

As described in more detail below, *Szwargulski* fails to teach or suggest these limitations because:

(1) the elements 50, 51, 52, 53 of *Szwargulski* are not a second chamber surrounding the first chamber, as recited in independent claim 1; and

(2) the valve 54 of *Szwargulski* does not restrict flow to less than the volumetric flow of the fuel pump.

Regarding the first reason, the Examiner alleges that *Szwargulski* discloses "an annular second chamber (as defined by elements 50, 51, 52 and 53 with the annular sections 51 and 52 of element 50 above the plate element 48 and below the screen element 55 define a small chamber that surround the outer wall of element 46 and is partitioned by three rib elements 53; col. 4 ll. 50-53) surrounding and connected to the first chamber (37 w/i 46) via a throttle 54". Applicants disagree.

Szwargulski relates to a "vehicle fuel pumping unit wherein a reserve fuel supply container is located within the fuel tank to supply liquid fuel to a motor-operated pump when the

tank is nearly empty” (see Abstract, lines 1-4). *Szwargulski* depicts a container 27 in which a fuel pump unit is arranged (see Fig. 2 of *Szwargulski*). The container bottom wall includes a central wall section 29 close to a tank floor (see col. 3, lines 55-57 of *Szwargulski*). A central fuel chamber 37 is disposed above the wall section 29 such that liquid flows through flow port 34 in the central wall section 29 into the central fuel chamber 37 (see Fig. 2 and col. 3, lines 63-68 of *Szwargulski*). The pump has a liquid intake passage 46 extending downwardly through an annular valve-filter assembly 47 (see col. 4, lines 43-46 of *Szwargulski*).

The structure defined by elements 50, 51, 52 and 53 of *Szwargulski*, although forming an annular assembly, does not surround the first chamber 37 because the first chamber 37 is not within the perimeter designated by reference numeral 46. Rather, only the reference numeral 37 which designates the first chamber is within the inner circumference of the tubular liquid intake passage 46. A designator arrow associated with reference numeral 37 indicates the physical location of the first chamber, i.e., the area beneath the tubular intake passage 46 and above the bottom wall section 29. Since the first chamber 37 is not part of the intake passage 46, *Szwargulski* fails to teach or suggest that the structure defined by elements 50, 51, 52 and 53 depicted in Fig. 2 is “an annular second chamber surrounding and connected to the first chamber via a throttle valve”, as recited independent claim 1. Therefore, *Szwargulski* fails to disclose, teach or suggest the expressly-recited subject matter of independent claim 1 for *at least* this reason.

Regarding the second reason, the Examiner contends that a volumetric flow restricted by valve 54 of *Szwargulski* is smaller than the volumetric flow fed by the pump. Applicants disagree with this assertion because *Szwargulski* requires that the pump continue to pump liquid to keep a vehicle running using fuel flowing through valve 54. More specifically, *Szwargulski* discloses that during normal operations, when there is sufficient fuel in the fuel tank, a float 42 is

buoyed up to open valve 40 and liquid fuel is supplied to the intake passage 46 through port 34 (see col. 5, lines 30-33 of *Szwargulski*). But, when the liquid level in the tank drops and the float is no longer buoyed, the central fuel chamber 37 is supplied solely by the valve 54 (see col. 5, lines 39-53 of *Szwargulski*). Moreover, the pump is able to keep the vehicle running using the fuel supplied through valve 54 until the reserve container is empty (see col. 5, lines 46-53 of *Szwargulski*). There is no disclosure, teaching or suggestion whatsoever in *Szwargulski* that the flow through valve 54 is less than the volumetric flow fed by the pump. Rather, to keep the vehicle running, the flow through the valve 54 is required to supply the pump with the full volumetric flow of the pump.

As is readily apparent to one skilled in the art, the valve 54 is a simple check valve. Due to the shape of this valve, the skilled person refers to such a valve as an “umbrella valve”. The skilled person knows that the main feature of check valves is that they have an unregulated flow when open and can not be considered to be a throttle valve, where a throttle valve is configured to guarantee a specific, defined flow. A specific, defined flow is essential to operation of applicants’ claimed device. Thus, *Szwargulski* fails to disclose, teach or suggest “wherein a volumetric flow of fuel that is restricted by the throttle valve is small than the volumetric flow fed by the fuel pump”. Independent claim 1 is thus patentable over *Szwargulski* for *at least* this additional reason. Reconsideration and withdrawal of all the rejections under 35 U.S.C. §102(b) and §103(a) are therefore in order, and a notice to that effect is respectfully requested.

In view of the patentability of independent claim 1, dependent claims 2-4 and 6-9 are also patentable over the prior art for the reasons set forth above, as well as for the additional recitations contained therein.

Based on the foregoing amendments and remarks, this application is in condition for allowance. Early passage of this case to issue is respectfully requested.

Should the Examiner have any comments, questions, suggestions, or objections, the Examiner is respectfully requested to telephone the undersigned in order to resolve any outstanding issues.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,
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